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TO: House Committee on State Administration

FROM: Cynthia L. Wolken, Esq., Montana Legal Services Association
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DATE: February 22, 2007

RE: HB 767, Deny public benefits to immigrants

Good morning, Mr. Chairman and Members of the Committee. My name is Cynthia Wolken and I am an attorney with Montana Legal Services Association in Helena. As you may know, we provide free legal assistance to low income Montanans. As a part of this service, we provide help to eligible non-citizens in a variety of areas, including helping them access the public benefits for which they qualify. I am here on behalf of these clients to urge a do not pass on HB 767 for several reasons.

First, this legislation is clearly unconstitutional. When public benefits are funded by the federal government, it is well-settled law that a state may not deny benefits to someone who qualifies for the benefit under federal law. If passed, the law would be subject to suit, and there is no doubt that HB 767 would fail. The state of Montana will have to expend precious resources defending this unconstitutional legislation.

Secondly, there is a human face to this bill. Many of the non-citizens that we have helped access public benefits have been women who have survived domestic violence. These non-citizens are often the most vulnerable clients we serve and the particular public benefit at issue could be the difference between a woman giving birth in a hospital rather than on the street and the difference between she and her children having a roof over their heads versus sleeping in a car.

Lastly, assuming that one of the goals of this bill is to prevent undocumented people from accessing public benefits, as a practical matter, numerous studies have shown that very few if any undocumented people seek public services at all, even when they do qualify. Because of their status, they fear any contact with a government agency puts them at risk for arrest or deportation. Non-citizens that lawfully qualify for benefits should not be punished for any perceived, yet non-existent, abuse of the system by ineligible non-citizens.

For all of above reasons, on behalf of our clients, I ask that you oppose HB 767. Please ensure that this bill fails in this committee rather than after a costly and unsuccessful battle in the courts.

Thank you.